



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

Christopher J. Reckamp
Vedder Price Kaufman & Kammholz
222 N. LaSalle Street
Chicago, IL 60601

COPY MAILED

FEB 19 2004

In re Application of
Adrian Sfarti et al.
Application No. 09/471,877
Filed: December 23, 1999
Attorney Docket No. 0100.9910145

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final office action mailed July 24, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on October 25, 2002.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

As to item (1), The petition filed December 29, 2003, lacks the required reply to the Office action mailed July 24, 2002. Accordingly, this application cannot be revived until the required reply has been submitted.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the un-extended time for response expired. Therefore, no extension fees are due on a petition for revival. In view thereof, the extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

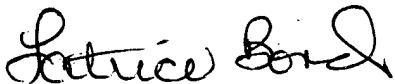
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 PO Box 1450
 Alexandria, VA 22313-1450

By facsimile: (703) 872-6906
 Attn: Office of Petitions

By hand: Office of Petitions
 2201 South Clark Place
 Crystal Plaza 4, Suite 3C23
 Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.



Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Copy of Office action mailed July 24, 2002.